

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

IN RE:

DONALD J PECK
Debtor,

CASE NO. **09-10560-SDB**
CHAPTER 7
JUDGE SUSAN D BARRETT

CHASE BANK USA, N.A
Plaintiff,

vs.

Adv. Pro. No. **09-01036-SDB**

DONALD J PECK
Defendant

**RESPONSE TO DEFENANT'S MOTION TO DISMISS
ON BEHALF OF CHASE BANK USA, N.A.**

Now comes Plaintiff Chase Bank USA, N.A., through counsel, and responds to the Defendant's motion as follows:

1. On January 16, 2009, 46 day before the entry of the Order for Relief, DONALD J PECK obtained a cash advance on account xxxx-xxxx-xxxx-2533 in the amount of \$ 500.00 with fees of \$ 15.00.
2. On January 3, 2009, 60 day before the entry of the Order for Relief, DONALD J PECK obtained a cash advance on account xxxx-xxxx-xxxx-2533 in the amount of \$ 500.00 with fees of \$ 15.00.
3. DONALD J PECK 's debt is a "consumer debt", as defined by 11 U.S.C.§ 101(8) in that the extension of credit was for personal, family or household use.
4. Cash advances aggregating more than \$ 825.00 that are extension of consumer

credit under an open end credit plan obtained by an individual debtor on or within 70 days before the entry of the Order for Relief under Title 11 of the United States Code are presumed to be non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(C)(i)(II).

5. Chase Bank USA, N.A. asserts that if a debt is presumed to be non-dischargeable pursuant to 11 U.S.C. § 523(a)(2)(C)(i)(II) states a claim upon which relief can be granted.

WHEREFORE, Chase Bank USA, N.A. asks this court to deny the Defendant's motion.

Dated: July 8, 2009

/s/ Elizabeth H Parrott
ELIZABETH H PARROTT
Weinstein & Riley PS
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Georgia Bar Number: 750965

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I hereby certify that on July 8, 2009, I electronically filed the foregoing
Paper(s) with the Clerk of the Court using the ECF system which will send notification of
such filing to the following:

Lee Ringler, Attorney for Defendant

and I hereby certify that I also mailed via United States Postal Service the foregoing
documents to the following on July 9, 2009:

Lee Ringler, Attorney for Defendant

Dated: July 8, 2009

/s/ Elizabeth H Parrott
Weinstein & Riley PS
Attorney for Chase Bank USA, N.A.
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